

# Delaware Erases Rape Kit Backlog



A special report by  
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Delaware State Auditor

# Auditor's Letter



**Dear fellow Delawareans,**

For the past few years, the rape kit backlog has been a challenge for many states across the nation. The federal government established the Sexual Assault Kit Initiative (SAKI) in 2015 to address the number of unsubmitted DNA test kits managed by law enforcement. Delaware received over \$2.1 million in federal grants, through the Bureau of Justice Assistance (BJA), targeted for improving the criminal justice response to sexual assault crimes within the state.

The additional funding provided the opportunity for Delawareans to benefit by hiring talent, enhancing systems, developing and documenting policies and procedures and implementing best practices to clear the backlog of untested rape kits.

Unlike other states in the region, Delaware has yet to address legislation mandating testing for all rape kits to eliminate the backlog from recurring and ensure justice is provided for victims. Acting now conveys the message that no sexual assault will be tolerated in Delaware and that those who break the law will be held accountable.

As always, thank you for the opportunity to serve you.

Sincerely,

A handwritten signature in blue ink that reads "Kathy McGuinness". The signature is fluid and cursive, written in a professional style.

Kathy McGuinness, RPh, CFE  
Delaware State Auditor

# Terminology



The teal ribbon symbolizes sexual assault awareness

**A Sexual Assault Kit (SAK):** Is a package of items that is used by medical workers to preserve physical evidence acquired from a living or deceased individual following a sexual assault.

**Unsubmitted Sexual Assault Evidence Kit:** Sexual Assault Kit in police custody that have not been submitted for testing with CODIS-eligible DNA methodologies in forensic laboratory.

**Deoxyribonucleic Acid (DNA):** Is the molecule that carries genetic instructions in all living things.

**Combined DNA Index System (CODIS):** Is a federal, state, and municipal database system that stores DNA profiles from known criminals and crime scenes. CODIS is used to share DNA across all the states in the nation and to provide leads for investigation.

**CODIS-Hit:** When a DNA profile is entered into CODIS and a matching DNA profile from a different criminal offense or known perpetrator is discovered.

**SAK Inventory:** A list of articles or items containing information such as, but not limited to, item identifiers, quantity, and location of the item(s).

**SAK Tracking:** The tracking and accounting of SAKs throughout their journey, or path, from collection to final disposition.

**SAK Federal Grant Reporting:** The task of submitting a written, complete report to appropriate entity within the specified time frame and with all relevant data provided.

**LEISS: Law Enforcement Information Sharing Service** - A PC-based system that captures incident data electronically.



# Overview

An American is sexually assaulted every 68 seconds[1]. Rape and other forms of sexual assault have devastating long-term consequences for the victim and the community. When a sexual assault case occurs, a Sexual Assault Kit also known as Sexual Assault Evidence Kit or SAK is used for the collection of DNA, which is a critical component to assure prosecution of an offender.

Sexual assault affects millions of individuals globally. Sexual assault is a set of offenses that includes sexual harassment, sexual assault, and rape committed by a stranger, an acquaintance, a friend, a family member, or an intimate partner.

In this report, the Delaware Office of Auditor of Accounts reviewed the use of federal grant funds provided by the National Sexual Assault Kit Initiative (SAKI) program for clearing the backlog of untested kits and program development and enhancement.

**"An American is sexually assaulted every 68 seconds."**



## **Sexual Assault Statistics Nationwide:**

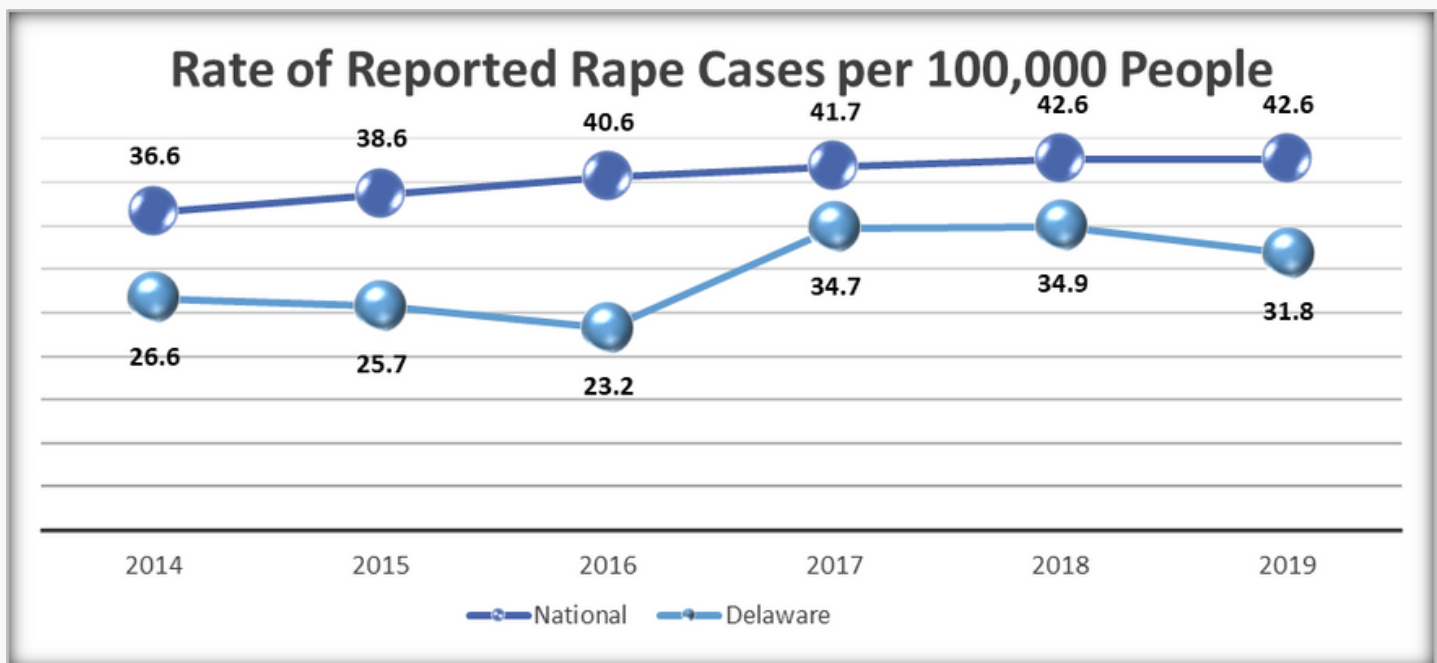
- Every year there are 463,634 victims (age 12 or older) of rape and sexual assault in the United States [1].
- Younger people are at the highest risk of sexual assault between Age 12-34 [1].
- More than 2/3 of sexual assaults go unreported [2].

# Sexual Assault Statistics Delaware

The Uniform Crime Reporting System (UCR) offers an overall view of the crimes reported and arrests made in the state each year. According to UCR data:

From 2014 - 2019 ;

- 2,017 individuals reported being a victim of rape.
- 433 arrests for rape were made.



UCR data indicates that the rate of Rape cases in Delaware since 2014 largely follows the same trend in the rate of reported rapes committed per 100,000 people nationwide[3].

# Significance of DNA Evidence and Sexual Assault Kits

The SAK is a vital investigative tool able to match the identification of the offender's biological samples. DNA evidence results are stored in the FBI's Combined DNA database, known as CODIS, and is nationally accessible by law enforcement. Statistics show that rapists are more likely to be serial criminals[4], resulting in a higher chance that an offender's DNA will already be stored in CODIS. Matched DNA evidence is critical to criminal accountability and potentially preventing further criminal acts.

Eliminating the backlog of untested kits and preventing recurrence of the storing untested kits over periods of time are key to the swift identification of perpetrators for the protection of Delaware communities. Testing of the rape kit in Delaware is not mandated.



# Establishment of the SAKI Program

A national survey conducted by state and local law enforcement agencies for the National Institute of Justice concluded that the issue of unsubmitted sexual assault kits had become a huge concern across the nation as states struggled to address the backlog of kits[5]. SAKI is a grant program, established in 2015, to address the number of unsubmitted DNA test kits managed by law enforcement.

## **The SAKI program provided funding to address issues that underlies the problem of unsubmitted SAKs, including:**

- **Performance of an inventory of all the unsubmitted SAKs;**
- **Track and test previously unsubmitted SAKs;**
- **Creation of a multidisciplinary working group for each site;**
- **An assigned SAK site coordinator to serve as a central point of contact for all related issues.**

The Delaware General Assembly passed Senate Joint Resolution 1 (SJR 1) in June 25, 2015. The resolution required every law enforcement agency to report the number of untested sexual assault kits to the Attorney General's Office. The combined report disclosed that the State of Delaware retained 1,033 untested sexual assaults kits in evidence/storage among its law enforcement agencies[6].

The Delaware Criminal Justice Council (CJC) applied for funding through the Bureau of Justice Assistance (BJA) and on September 2015 was awarded a three-year federal grant for the SAKI project in the amount of \$1.169-million. An additional \$1-million award was received on October 2018 to help address the backlog of untested kits. The backlogged rape kits required testing at an average cost of \$500-\$1,200 per kit[7].

# Rape Kit Mandate Legislation Analysis

Analysis of the states surrounding Delaware revealed that six out of seven of those states have enacted laws and/or made changes to their policies to mandate timely submission for all rape kits to the crime lab. In contrast, Delaware has yet to address legislation to act on preventing future backlogs.

## State Comparison of Legislation Mandating 100% Testing

States	Mandated Testing	House Bill Number	Date Enacted
DE	NO	SJR1*	06/30/2015
MD	YES	HB1096	04/18/2019
NJ	NO	S1216 *	07/17/2019
NY	YES	S8117	11/28/2016
NC	YES	HB29	09/18/2019
PA	YES	HB 272	07/10/2015
VA	YES	HB808	01/07/2020
WV	YES	HB4476	03/05/2020

\*House Bill enacted for the purpose of obtaining an inventory of all untested rape kits in the state.

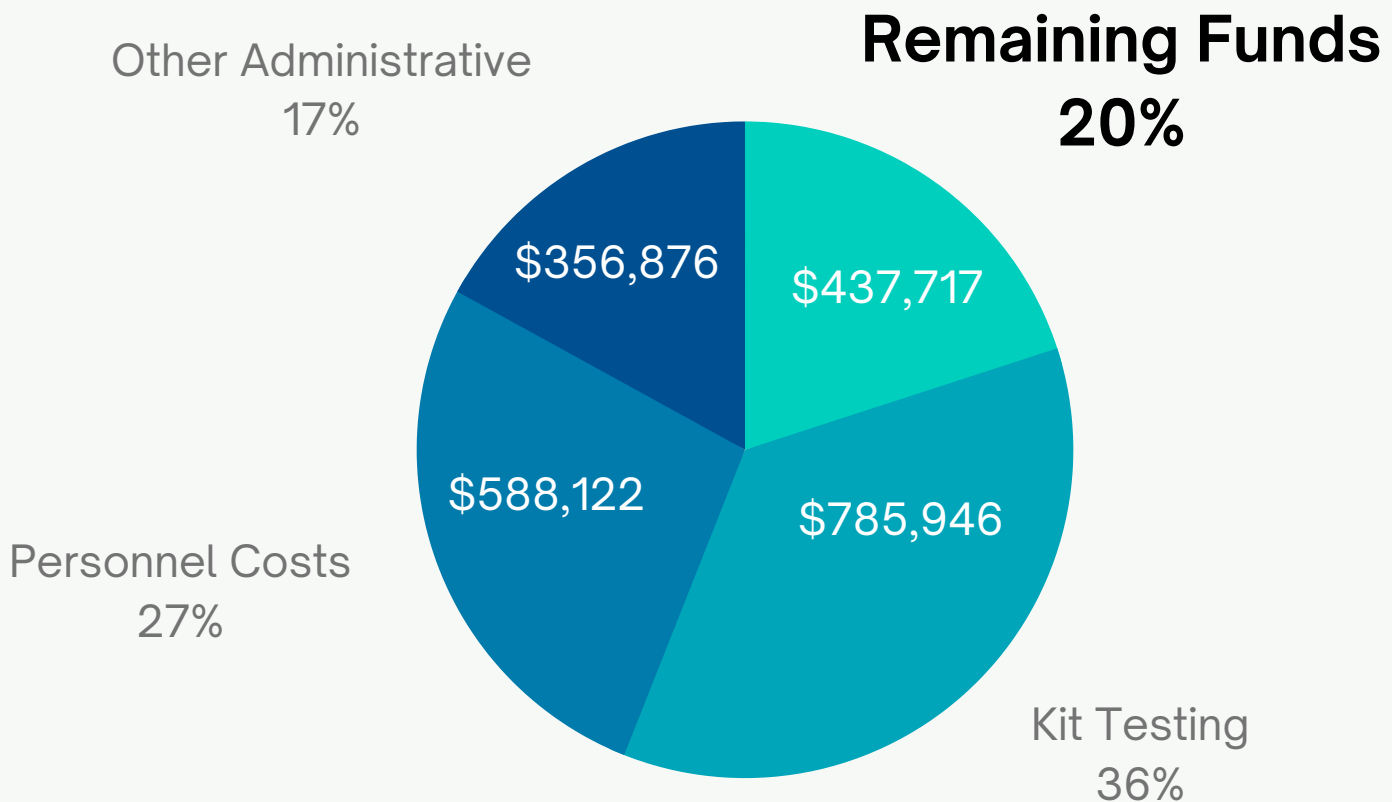


# Rape Kit Grant Analysis

Review of the Delaware SAKI expenditures and backlog list revealed the following:

- Matched with offender/arrest hits for of 110 profiles already existent in CODIS,
- Matched DNA of known/unknown perpetrators (45 hits in 12 different states)
- Cleared a backlog of 1,235 DNA kits at a total cost of \$1,730,945 (average \$1,402 per kit), including kit testing, personnel and administrative costs.
  - Cleared 100% of backlog for all the untested rape kits prior to 2018;  
Hired a SAKI Oversight Coordinator, Deputy Attorney General, and SAKI Consultant;
  - Created three sub-committees and a multi-disciplinary group to oversee and guide the project;
  - Completed an inventory count of all untested sexual assault kits;
  - Developed a policy and procedure manual for the investigation of sexual assault complaints;
  - Launched state-wide sexual assault kit tracking using LEISS.

## Delaware SAKI Federal Grant Expenditures (2015, 2018):



# Observations & Recommendations

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## Observation:

Delaware does not currently mandate testing for all SAKI kits. Delaware's SAKI Coordinator reported that the state is currently working with SAKI Partners toward the goal of implementing a "Test All Kits" policy which reflects SAKI national best practices.

## Recommendation:

Enact legislation/policy mandating testing for all rape kits to eliminate the backlog from reoccurring and ensure justice is provided for victims.

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**"These funds will certainly go to improving the Criminal Justice System and allowing for survivors of sexual assault to begin their process of healing"**

**- Christian Kervick**

**Executive Director of the Delaware Criminal Justice Council**

# Endnotes

1 “Victims of Sexual Violence: Statistics.” RAINN. Accessed March 16, 2022, <https://www.rainn.org/statistics/victims-sexual-violence>.

2 “The Criminal Justice System: Statistics.” RAINN. Accessed March 16, 2022, <https://www.rainn.org/statistics/criminal-justice-system>.

3 “Offense known to Law Enforcement. “Uniform Crime Reporting System (UCR). Accessed March 24, 2022. <https://ucr.fbi.gov/crime-in-the-u.s>

4 “Perpetrators of Sexual Violence: Statistics.” RAINN. Accessed March 25, 2022, <https://www.rainn.org/statistics/perpetrators-sexual-violence>.

5 “Sexual Assault Kit Initiative (SAKI) Training and Technical Assistance (TTA). “RTI International. Accessed April 6, 2022. <https://www.rti.org/impact/sexual-assault-kit-initiative-saki-training-and-technical-assistance-tta>

6 “Final Report Senate Joint Resolution 1 Untested Rape Kits.” Criminal Justice Council. Accessed April 7, 2022, [https://cjc.delaware.gov/wp-content/uploads/sites/61/2017/06/Senate\\_Joint\\_Resolution\\_1\\_Final\\_Report.06012016\\_min.pdf](https://cjc.delaware.gov/wp-content/uploads/sites/61/2017/06/Senate_Joint_Resolution_1_Final_Report.06012016_min.pdf)

7 “Frequently Asked Questions.” Victims of Crime. Accessed April 11, 2022, <https://victimsofcrime.org/frequently-asked-questions/>.